

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ZORA P. MARTIN and DEPARTMENT OF THE ARMY,
TROOP MEDICAL UNIT, Fort Richardson, AK

*Docket No. 99-401; Submitted on the Record;
Issued May 1, 2000*

DECISION and ORDER

Before MICHAEL J. WALSH, BRADLEY T. KNOTT,
A. PETER KANJORSKI

The issue is whether appellant has met her burden of proof to establish that she sustained a medical condition in the course of her federal employment.

On May 5, 1998 appellant, then a 63-year-old medical clerk, filed a notice of occupational disease and claim for compensation (Form CA-2), alleging that she had been exposed to tuberculosis in the performance of duty. Appellant stated that one year before, when she first started work in her current position, she tested negative for tuberculosis, but that on April 30, 1998 her annual test results were positive for the disease. Appellant further stated that she was regularly exposed to sick patients in the course of her duties and that none of her family members were carriers of the disease.

By letter dated August 10, 1998, the Office of Workers' Compensation Programs notified appellant that the information she had submitted was insufficient to establish that she developed a medical condition in the performance of duty, and requested that appellant submit medical evidence, as well as additional factual information, to include a comprehensive medical report from her treating physician describing her symptoms, the results of tests and examinations, the treatment provided, the effect of treatment, and the physician's explanation, in medical terms, as to the causal relationship between the cited work factors and the diagnosed conditions. The Office advised appellant that such information was crucial to her claim and allowed her approximately 30 days to submit the requested information.

In a decision issued on September 11, 1998, the Office denied appellant's claim for compensation on the grounds that the evidence of file failed to establish that she developed tuberculosis as a result of exposure in the course of her federal employment duties. The Office stated that appellant had been advised of the deficiencies in her claim and afforded an opportunity to provide supportive evidence, but that evidence sufficient to support appellant's claim had not been received.

The Board finds that appellant has failed to demonstrate that she contracted tuberculosis in the performance of her federal employment duties as alleged.

An employee seeking benefits under the Federal Employees' Compensation Act¹ has the burden of establishing the essential elements of his or her claim including the fact that the individual is an "employee of the United States" within the meaning of the Act, that the claim was timely filed within the applicable time limitation period of the Act, that an injury was sustained in the performance of duty as alleged, and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury. These are essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.²

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the employment factors identified by the claimant were the proximate cause of the condition for which compensation is claimed or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant.³ The medical evidence required to establish causal relationship, generally, is rationalized medical opinion evidence.⁴ Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factor. The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.⁵

In this case, as appellant did not submit, prior to the Office's September 11, 1998 decision, any medical evidence whatsoever in support of her claim that she contracted

¹ 5 U.S.C. §§ 8101-8193.

² *Charles E. Evans*, 48 ECAB 692 (1997); *Richard F. Kastan*, 48 ECAB 651 (1997).

³ *Charles E. Evans*, *supra* note 2.

⁴ *See Judith J. Montage*, 48 ECAB 292 (1997).

⁵ *Charles E. Evans*, *supra* note 2; *Earl D. Smith*, 48 ECAB 615 (1997).

tuberculosis as a result of her federal employment, appellant has not met her burden of proof and the Office properly denied her claim.⁶

The decision of the Office of Workers' Compensation Programs dated September 11, 1998 is affirmed.

Dated, Washington, D.C.
May 1, 2000

Michael J. Walsh
Chairman

Bradley T. Knott
Alternate Member

A. Peter Kanjorski
Alternate Member

⁶ The Board notes that, subsequent to the Office's September 11, 1998 decision, on November 6, 1998 appellant submitted additional evidence into the record. By letter dated November 6, 1998, the Office advised appellant that the additional evidence had been received and would be associated with her claim and that she may wish to follow one of the avenues of appeal outlined in the September 11, 1998 decision. On appeal to the Board, appellant requested that the Board review this additional evidence. The Board notes, however, that it cannot consider evidence submitted subsequent to the Office's September 11, 1998 decision as its review of the case is limited to the evidence of record which was before the Office at the time of its final decision. 20 C.F.R. § 501.2(c). Appellant may, by written request, seek reconsideration by the Office. 5 U.S.C. § 8128; 20 C.F.R. § 10.138.